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June 12, 1985

Les Ruark, Co-Chairperson
Concerned Oregonians for Proper
Waste Disposal
Star Route Box 58
Arlington, Oregon 97812

James K. Murphy ✓
Oregon State University
Extension Agent
Gilliam County Office
Condon, Oregon 97823

Re: Public Records Request

Dear Mr. Ruark and Mr. Murphy:

By letter dated June 5, 1985, Mr. Ruark requested that the Attorney General review the refusal of Mr. Murphy, Gilliam County Extension Agent for OSU, to provide an opportunity to inspect and copy certain records in Mr. Murphy's custody. Specifically, Mr. Ruark seeks to review and copy "'sign-up sheets' used to record the attendance at a public forum on toxic waste disposal arranged and in part sponsored by the extension service, which also provided the sign-up sheets." The forum was held May 23, 1985 in Mikkalo, Oregon.

The Public Records Law, ORS 192.410 to 192.500, gives any person denied the right to inspect and copy public records of a state agency the right to petition the Attorney General to review the public record to determine if it may be withheld from public inspection. ORS 192.450. Legislative policy in Oregon is that

> "[e]very person has a right to inspect any public record in this state, except as otherwise expressly provided by ORS 192.500." ORS 192.420.

"Public record" is very broadly defined to include

> "Any writing containing information relating to the conduct of the public's business, prepared, owned, used or retained by a public body regardless of physical form or characteristics." ORS 192.410(4).

"Public body" includes every state and local governmental officer or agency in this state. ORS 192.410(1).

It is clear that the sign-up sheet in question is a "public record" within the definitions set forth above. The sheet was developed by and for a public official (an OSU extension agent) to assist the agent in performing his official duties. It is thus available for public inspection and copying unless "otherwise expressly provided by ORS 192.500."

It has been argued that ORS 192.500(2)(c) applies to the sign-up sheet. That provision states:

> "(2) The following public records are exempt from disclosure under ORS 192.410 to 192.500:
>
> " . . . .
>
> "(c) Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure."

As stated in the Attorney General's Public Records and Meetings Manual, p. I-8, this provision is designed to protect the confidentiality of information which may lead to further investigation -- the "hot lead." For the exemption to apply, four tests must be met:

1. The information must be voluntarily submitted. The records in question must meet this condition.

2. The information must be of a type which should reasonably be kept confidential. This condition is not met. We understand that the sign-up sheet lists the name and city of

residence of persons attending the public forum. This is not the kind of information which most people would consider to be confidential. Most people, for example, list their names, addresses and telephone numbers in telephone directories, on their checks, and on various other materials which are commonly shared with strangers. Oregon appellate courts repeatedly have refused to find, in other circumstances, that names and addresses on public records are exempt from disclosure. See, e.g., Morrison v. School District No. 48, 53 Or App 148, 631 P2d 784 (1981); Kotulski v. Mt. Hood Community College, 62 Or App 452, 600 P2d 1083 (1983); Lane County School District v. Parks, 55 Or App 416, 637 P2d 1383 (1981). We do not believe the information in the sign-up sheets meets test number two.

3. The agency having custody of the record must show that it has obliged itself in good faith not to disclose the information. We understand that no representation concerning the confidentiality of the sign-up sheet was made to persons attending the forum or signing the sheet. The third part of the test thus does not apply.

4. Finally, disclosure of the information must cause harm to the public interest. We doubt that disclosure of the information at issue here would harm the public interest, although the extension service argues otherwise. However, in view of our conclusions concerning other parts of the 4-part test, we need not decide this issue in order to conclude that the confidentiality provision in ORS 192.500(2)(c) does not apply.

We have reviewed the other grounds for exemption of records from disclosure found in ORS 192.500, and conclude that none of them apply to these sign-up sheets. The only other exemption which might arguably apply is the personal privacy exemption found in ORS 192.500(2)(b). As discussed above, we do not believe that names and cities of residence (or even addresses) is the kind of information most people hold confidential. This exemption does not apply.

Having found that no exemption from disclosure applies, we order that the sign-up sheet(s) be made available for inspection and copying. This order must be complied with within seven days after its issuance unless within that period the agency issues notice of its intent to institute proceedings in the Marion County Circuit Court to contest the order. Copies of such a

notice must be sent to the Attorney General and by certified mail to Mr. Ruark at the address shown on his petition. The agency must institute court proceedings within seven days after giving notice of its intent to do so. ORS 192.450.

Yours very truly,

DONALD C. ARNOLD
Special Counsel to the
Attorney General

DCA:cm
cc: Dick Craig, OSU
Jerry Casby, Assistant Attorney General